

# Title IX Procedures & Investigation

## The University’s Procedure for Responding to conduct under Title IX & Clery/Violence Against Women Act: Sexual Misconduct and Sexual or Gender-Based Harassment

Upon receipt of a sexual misconduct, sexual or gender-based harassment report, the University will proceed as described below:

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## II) Reporting

The university encourages anyone who experiences or becomes aware of an incident of prohibited conduct involving a student to immediately report the incident through the following reporting options:

- By contacting the university's Title IX Coordinator & Equity Officer/Director:  
Theresa Rowland  
Phone: (616) 331-9530  
Email: [rowlanth@gvsu.edu](mailto:rowlanth@gvsu.edu)  
4000 James H. Zumberge Hall  
1 Campus Drive  
Allendale MI 49401-9403
- Through <http://www.gvsu.edu/titleix/> the university's website for online reporting (which also allows for anonymous reporting)  
A complainant may choose to make a report to the university to pursue resolution under these procedures and may also choose to make a report to law enforcement. A complainant may pursue either, or both, of these options at the same time. As set forth in the policy, a complainant who wishes to pursue criminal action in addition to, or instead of, making a report under these procedures should contact law enforcement directly.
- Emergencies on the Allendale Campus should be reported to the Grand Valley Police Department by calling 911.
- Any student, faculty or staff member is encouraged to accurately and promptly report all nonemergency criminal incidents by calling the Grand Valley Police Department at (616) 331- 3255. The university's GVPD dispatches non-emergency call for service on the Allendale and Pew Grand Rapids Campuses.
- Criminal activities in Ottawa County may be reported anonymously to Silent Observer by calling toll free at (877) 88-SILENT or (877) 887-4536 or at <http://mosotips.com/>.
- Emergencies at the Pew Grand Rapids Campus should be reported by calling 911. Criminal incidents should be reported to the Grand Rapids Police Department (616) 456-3400 and Pew Campus Security (616) 331-3255.
- Criminal activities in Kent County may be reported anonymously to Silent Observer by calling (616) 774-2345, Muskegon County (231) 722-7463, and Grand Traverse County (231) 947- 8477.
- Criminal incidents at the Meijer Holland Campus and Muskegon and Traverse City regional centers should be reported to the Holland Police (616) 355-1100, Muskegon City Police Department (231) 724-6750 (Lake Michigan Center and Muskegon Innovation Hub) or Muskegon Community College Campus Safety (231) 777-0545 (Muskegon Regional Center), Grand Traverse Sheriff's (231) 922-4550 or NMC Campus Safety & Security (231) 995-1111, respectively, as well as to Pew Department Campus Security.
- Criminal incidents at the Detroit Center should be reported to the Detroit Police Department (313) 596-2200 and Pew Campus Security (616) 331-3255.

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The [University Counseling Center](#) offers confidential services for individuals who are unsure about whether to report prohibited conduct or are seeking counseling or other emotional support in addition to (or without) making a report to the university. Complainants are entitled to receive information, assistance and a broad range of support and remedial measures regardless of whether they choose to pursue criminal and/or university disciplinary resolution of prohibited conduct See the GVSU [Title IX](#) website and/or [Victim's Rights and Options](#) for resources, remedial measures and how to request them.

## III) Expectations for Complainants and Respondents

Pursuant to these procedures, complainants and respondents can expect:

- a. Prompt and equitable resolution of allegations of prohibited conduct;
- b. Privacy in accordance with the policy and any legal requirements;
- c. Reasonably available interim remedial measures, as described in these procedures;
- d. Freedom from retaliation for making a good faith report of prohibited conduct or participating in any proceeding under the policy; [see [Sexual Misconduct policy](#) for definition of Retaliation]
- e. The responsibility to refrain from retaliation directed against any person for making a good faith report of prohibited conduct or participating in any proceeding under the policy; [see [Sexual Misconduct policy](#) for definition of retaliation]
- f. The responsibility to provide truthful information in connection with any report, investigation, or resolution of prohibited conduct under the policy or these procedures;
- g. The opportunity to articulate concerns or issues about proceedings under the policy and these procedures;
- h. Timely notice of any meeting at which the party's presence is contemplated by these procedures;
- i. The opportunity to choose an advisor, including the right to have that advisor attend any meeting at which the party's presence is contemplated by these procedures;
- j. Written notice of an investigation, including notice of potential policy violation(s);
- k. The opportunity to offer information, present evidence, and identify witnesses during an investigation;
- l. The opportunity to be heard, orally and/or in writing, as to the determination of a policy violation and the imposition of any sanction(s);
- m. Timely and equal access to any information that will be used during resolution and related meetings;
- n. Reasonable time to prepare any response contemplated by these procedures;
- o. Written notice of any extension of timeframes for extenuating circumstances; and
- p. Written notice of the outcome of any determination of a policy violation, imposition of any sanction(s), and the rationale for each.

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## IV) Initial Assessment

Upon receipt of a report of prohibited conduct, the Title IX Coordinator & Equity Officer/Director will make an initial assessment of the reported information and respond to any immediate health or safety concerns raised by the report. This initial assessment will complete the following:

- a. Assess the complainant's safety and well-being and offer the university's immediate support and assistance;
- b. Inform the complainant of the right to seek medical treatment, and explain the importance of obtaining and preserving forensic and other evidence;
- c. Inform the complainant of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
- d. Inform the complainant about university and community resources, the right to seek appropriate and available remedial and protective measures, and how to request those resources and measures;
- e. Inform the complainant of the right to seek university investigation and resolution under these procedures; ascertain the complainant's expressed preference (if the complainant has, at the time of the initial assessment, expressed a preference) for pursuing university investigation and resolution; and discuss with the complainant any concerns or barriers to participating in any University investigation and resolution under these procedures;
- f. Explain the university's prohibition against retaliation and that the university will take prompt action in response to any act of retaliation;
- g. Assess the nature and circumstances of the report, including whether it provides the names and/or any other information that personally identifies the complainant, the respondent, any witness, and/or any other third party with knowledge of the reported incident;
- h. Ascertain the ages of the complainant and the respondent, if known, and, if either of the parties is a minor (under 18), contact the appropriate child protective service agency; and
- i. Communicate with appropriate university officials to determine whether the report triggers any Clery Act obligations, including entry of the report in the daily crime log and/or issuance of a timely warning, and take steps to meet those obligations.

The Title IX Coordinator & Equity Officer/Director (or designee) will ensure that the complainant receives a written explanation of all available resources and options and is offered the opportunity to meet to discuss those resources and options. When a decision is reached to initiate an investigation or to take any other action under these procedures that impacts a respondent (including the imposition of interim protective measures), the Title IX Coordinator & Equity Officer/Director will ensure that the respondent is notified, receives a written explanation of all available resources and options, and is offered the opportunity to meet to discuss those resources and options.

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## **V) Sexual Misconduct Assessment and Response Team (SMART)**

Following the initial assessment, the Title IX Coordinator & Equity Officer/Director may forward to the Sexual Misconduct Assessment and Response Team [SMART] all information then known about the reported incident of prohibited conduct. Such information includes, if known, the names and/or any other information that personally identifies the complainant, the respondent, any witnesses, and/or any other third parties with knowledge of the reported incident.

SMART may evaluate reports of prohibited conduct and may convene (in person, by telephone, or by videoconference) regularly or as necessary to review information as it becomes available. The team may include: (1) the Title IX Coordinator & Equity Officer/Director or designee appointed by the Vice President for Inclusion and Equity; (2) a representative of the Grand Valley State University Police Department (GVPD), (3) a representative from the Dean of Students Office, and, (4) a representative from the Women's Center.

The team may include, when necessary, a representative from the Provost's Office, Human Resources, Housing, and/or Athletics, depending on the circumstances of the reported incident and the status of the complainant and the respondent. In addition, the team will include a representative from General Counsel's office for consultation.

SMART has access to certain otherwise confidential information, including law enforcement records, criminal history record, university disciplinary, academic and/or personnel records, and any other information or evidence known to the University or to law enforcement. SMART may seek additional information about the reported incident through any other legally permissible means.

### **A) RISK FACTORS**

SMART will determine whether the reported information and any other available information provides a rational basis for concluding that there is a threat to the health and/or safety of the complainant and/or to any other member of the university community. The team will make this determination based upon a review of the totality of the known circumstances, and will be guided by a consideration of the following factors:

- Whether the respondent has prior arrests, is the subject of prior reports and/or complaints related to any form of prohibited conduct, or has any history of violent behavior;
- Whether the respondent has a history of failing to comply with any university no-contact directive, other university protective measures, and/or any judicial protective order;
- Whether the respondent has threatened to commit violence or any form of prohibited conduct;
- Whether the prohibited conduct involved multiple respondents;
- Whether the prohibited conduct involved physical violence. "Physical violence" means exerting control over another person through the use of physical force. Examples of physical violence include hitting, punching, slapping, kicking, restraining, strangling, brandishing or using any weapon;

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- Whether the report reveals a pattern of prohibited conduct (e.g., by the respondent, by a particular group or organization, around a particular recurring event or activity, or at a particular location);
- Whether the prohibited conduct was facilitated through the use of rape facilitated drugs or similar drugs or intoxicants;
- Whether the prohibited conduct occurred while the complainant was unconscious, physically helpless or unaware that the prohibited conduct was occurring;
- Whether the complainant is (or was at the time of the prohibited conduct) a minor (under 18); and/or
- Whether any other aggravating circumstances or signs of predatory behavior are present.

## **B) DISCLOSURE(S) OF INFORMATION TO LAW ENFORCEMENT**

The team may be required to disclose information about alleged prohibited conduct to law enforcement in the following circumstances:

a. If the team (or, in the absence of consensus within SMART, the GVPD representative) concludes that there is a significant and articulable threat to the health or safety of the complainant or to any other member of the university community and that disclosure of available information (including the names and any other information that personally identifies the complainant, the respondent, any witnesses, and/or any other third parties with knowledge of the reported incident) is necessary to protect the health or safety of the complainant or other individuals, the GVPD representative will immediately disclose the information to the law enforcement agency that would be responsible for investigating the alleged act of prohibited conduct<sup>2</sup>. The team will make this determination based upon a review of the totality of the known circumstances and consideration of the list of risk factors, as described above. The Title IX Coordinator & Equity Officer/Director (or designee) will promptly notify the complainant whenever such disclosure has been made.

b. If the alleged act of prohibited conduct constitutes a felony violation of the Code of Michigan, the GVPD representative will so inform the other members of the team and will, within 24 hours, (i) consult with the appropriate county Prosecuting Attorney or other prosecutor who would be responsible for prosecuting the alleged act of prohibited conduct (the “Prosecuting Authority”), and (ii) disclose to the Prosecuting Authority the information then known to the SMART. This disclosure is required by the Michigan reporting statute where the alleged act of prohibited conduct would violate Article 7 (§18.2-61 et seq.) of Chapter 4 of title 18.2 of the Michigan Code of Conduct. Such disclosure will exclude the names and any other information that personally identifies the complainant, the respondent, any witnesses, and/or any other third parties with knowledge of the reported incident (the “Identifying Information”), unless the Identifying Information was disclosed to law enforcement.

SMART will reconvene as necessary to continue to evaluate whether any new or additional information received triggers any further obligation(s) under the Clery Act or

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with respect to any child protective service agency, and will direct the Title IX Coordinator & Equity Officer/Director to take further actions, as necessary.

## **C) UNIVERSITY ACTIONS FOLLOWING HEALTH AND SAFETY THREAT ASSESSMENT**

Upon completion of the assessment, the Title IX Coordinator and Equity Officer/Director will determine the course of action under these procedures, which may include without limitation, university investigation and resolution. Where the complainant requests that personally identifying information not be shared with the respondent, that no investigation be pursued, and/or that no further action be taken, the Title IX Coordinator will seek to honor the preferences of the complainant wherever possible. In all cases, the initial report, and/or assessment will be documented and retained by the university.

### Determining Complainant's Request(s)

1. In every case in which the complainant requests a university investigation and resolution the Title IX Coordinator & Equity Officer/Director will promptly initiate investigation and resolution under these procedures.
2. Where the complainant requests anonymity, that an investigation not to be pursued, and/or that no disciplinary action be taken a complainant may request that personally identifying information not be shared with the respondent, that no investigation be pursued, and/or that no disciplinary action be taken.
3. The Title IX Coordinator & Equity Officer/Director will consider the following factors in evaluating such request(s): (1) the totality of the known circumstances; (2) the presence of any risk factors, as described above; (3) the potential impact of such action(s) on the complainant; (4) any evidence showing that the respondent made statements of admission or otherwise accepted responsibility for the prohibited conduct; (5) the existence of any independent information or evidence regarding the prohibited conduct; and (6) any other available and relevant information. The university will seek to honor the complainant's request(s) if it is possible to do so while also protecting the health and safety of the complainant and the university community.
4. Determination that a Complainant's Request(s) Can be honored. Where the Title IX Coordinator and Equity Officer/Director determines that a complainant's request(s) (that personally identifying information not be shared with the respondent, that no investigation be pursued, and/or that no disciplinary action be taken) can be honored, the university may nevertheless take other appropriate steps designed to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the complainant and the university community. Those steps may include offering appropriate remedial measures to the complainant, providing targeted training or prevention programs, and/or providing or imposing other remedies tailored to the circumstances. At any time, the complainant may choose to pursue university investigation and resolution under these procedures. The Title IX Coordinator & Equity Officer/Director also may request that a report be reopened and pursued under these procedures if any new or additional information becomes available.

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## a. Determination that a Complainant's Request(s) Cannot be Honored.

Where the team has determined that a complainant's request(s) (that personally identifying information not be shared with the respondent, that no investigation be pursued, and/or that no disciplinary action be taken) cannot be honored (i.e., because honoring the complainant's request(s) would impede the university's ability to ensure the health and safety of the complainant and other members of the university community), the Title IX Coordinator & Equity Officer/Director (or designee) will take any appropriate university actions, which may include, without limitation, imposing an I.D.S. on the respondent by the Dean of Students; placing a "hold" on the respondent's university academic record; initiating a university investigation and resolution under these procedures; and/or arranging, imposing, or extending any other appropriate remedial and/or protective measures.

When the Title IX Coordinator and Equity Officer/Director has determined that the University must proceed with an investigation despite a complainant's request to the contrary, the Title IX Coordinator & Equity Officer/Director will make reasonable efforts to protect the privacy of the complainant. However, actions that may be required as part of the university's investigation will involve speaking with the respondent and others who may have relevant information, in which case the complainant's identity may have to be disclosed. In such cases, the Title IX Coordinator & Equity Officer/Director (or designee) will notify the complainant that the university intends to proceed with an investigation, but that the complainant is not required to participate in the investigation or in any other actions undertaken by the university.

When a complainant declines to participate in an investigation, the university's ability to meaningfully investigate and respond to a report may be limited. In such cases, the Title IX Coordinator & Equity Officer/Director may pursue the report if it is possible to do so without the complainant's participation in the investigation or resolution (e.g., where there is other relevant evidence of the prohibited conduct, such as recordings from security cameras, corroborating reports from other witnesses, physical evidence, or any evidence showing that the respondent made statements of admission or otherwise accepted responsibility for the prohibited conduct). In the absence of such other evidence, however, the university will only be able to respond to the report in limited and general ways (i.e., through the provision of remedial measures, targeted training or prevention programs, or other remedies tailored to the circumstances).

## **D) NOTICE TO COMPLAINANT AND RESPONDENT OF UNIVERSITY ACTIONS**

The Title IX Coordinator & Equity Officer/Director will promptly inform the complainant of any action(s) undertaken by the university to respond to reported prohibited conduct, including the decision to proceed with an investigation. The Title IX Coordinator & Equity Officer/Director also will promptly inform the respondent of any action(s) (including any interim protective measures) that will directly impact the respondent, and provide an opportunity for the respondent to respond to such action(s).

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The Title IX Coordinator & Equity Officer/Director retains the discretion to impose and/or modify any interim protective measures based on all available information. Interim protective 10 measures will remain in effect until the resolution, unless new circumstances arise which warrant reconsideration of the protective measures.

## **E) NOTICE OF POTENTIAL UNIVERSITY ACTIONS AGAINST STUDENT GROUPS OR ORGANIZATIONS**

If the Title IX Coordinator and Equity Officer/Director and/or SMART determines that a report of prohibited conduct reveals involvement of, or a pattern of behavior by, a particular student group or organization (e.g., agency group, special status organization, fraternity, sorority, contracted independent organization, club sport and/or athletic team), the Title IX Coordinator & Equity Officer/Director or designee may impose any appropriate remedial or protective measures contemplated by these procedures (e.g., training and/or prevention programs targeted to student members of the group or organization). The Title IX Coordinator & Equity Officer/Director or designee will also consult with relevant university officials regarding any appropriate University action directed at the student group or organization, including, but not limited to, modification, suspension or termination of the student group's or organization's agreement or status with the university.

## **VI) University Resolution**

Resolution of reports of prohibited conduct by employee and student respondents involves an investigation by university designated trained investigators and sanction (if applicable) by a review panel (as described in these procedures). Procedures specific to student respondents are outlined in B)i.; Procedures specific to employee respondents are outlined in B)ii.

### **A) FORMAL RESOLUTION**

A formal resolution is commenced when:

- i. A complainant reports that a student and/or employee has engaged in one or more instances of prohibited conduct and requests, at any time, an investigation and disciplinary action; or
- ii. At the conclusion of the assessment process described in the Initial Assessment section of these procedures, it has been determined, based upon a review of the totality of the circumstances and guided by a consideration of the initial assessment, that investigation of the reported conduct is necessary to ensure the health and safety of the complainant and/or other members of the university community, notwithstanding the complainant's request that personally identifying information not be shared with the respondent, that no investigation be pursued, and/or that no disciplinary action be taken.

### **B) INVESTIGATION**

The Title IX Coordinator & Equity Officer/Director (or designee) will appoint one or more investigators from the Division of Inclusion and Equity, trained appointed co-investigators from outside the Division of Inclusion and Equity, and/or an experienced external investigator to conduct a prompt, thorough, fair, and impartial investigation. All investigators will receive, at

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minimum, annual training on issues related to sex and gender-based harassment, sexual assault, dating violence, domestic violence, and stalking, and on how to conduct an investigation that is fair and impartial, provides parties with notice and a meaningful opportunity to be heard, and protects the safety of complainants and the university community while promoting accountability.

1. The Title IX office strives to maintain the highest standards of integrity, reliability and impartiality. To that end, any conflict of interest, or appearance of such conflict, will be identified, disclosed and managed by the Title IX coordinator. The potential for a conflict of interest arises when the expressed standards of policies and procedures related to Title IX (including the Sexual- or Gender-Based Harassment and Sexual Misconduct policies) are compromised, or appear to be compromised, by the material interest or the relationships of anyone who is a party to an investigation.
2. Notice of Investigation. The Title IX Coordinator & Equity Officer/Director (or designee) will notify the complainant and the respondent in writing of the commencement of an investigation. Such notice will (1) identify the complainant and the respondent; (2) specify the date, time (if known), location, and nature of the alleged prohibited conduct; (3) identify potential policy violation(s); (4) include information about the parties' respective expectations under the policy and these procedures; (5) explain the prohibition against retaliation; (6) instruct the parties to preserve any potentially relevant evidence in any format; and (7) provide a copy of the policy and these procedures.
3. At any point during the investigation, if it is determined there is no reasonable cause to believe that university policy has been violated, the Title IX Coordinator and Equity Officer/Director (or designee) has authority to terminate the investigation and end resolution proceedings.
4. Other Forms of Discriminatory and/or Harassing Conduct. If a report of prohibited conduct also implicates other forms of discriminatory and/or harassing conduct prohibited by the sex and gender-based harassment policy and/or any other violation(s) of university policies, the Title IX Coordinator & Equity Officer/Director (or designee) will evaluate all reported allegations to determine whether the alleged prohibited conduct and the alleged policy violation(s) may be appropriately investigated together without unduly delaying the resolution of the report of prohibited conduct. Where the Title IX Coordinator & Equity Officer/Director (or designee) determines that a single investigation is appropriate, the determination of responsibility for behavior and/ or the violation of university policy will be evaluated under the applicable policy (i.e., the Student Code of Conduct, Alcohol, Anti- Discrimination, Consensual Relationship), but the investigation and resolution will be conducted in accordance with these procedures.
5. Presumption of Non-Responsibility and Participation by the Parties. The investigation is a neutral fact-gathering process. The respondent is presumed to be not responsible; this presumption may be overcome only where the investigator(s) conclude that there is sufficient evidence, by a preponderance of the evidence, to substantiate the behavior that was the subject of the complaint. Neither party is required to participate in the investigation nor will any form of resolution under these procedures, and the investigator not draw any adverse inference from a decision by either of the parties not to participate.
6. Timeframe for Completion of Investigation; Extension for Good Cause. Our goal is to

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complete an investigation from commencement through in approximately sixty (60) calendar days. While ensuring the integrity and completeness of an investigation, as well as consideration of law enforcement and other pertinent factors of the investigation, temporary delay may occur. Pertinent factors may include: accommodation of the availability of witness, account for university breaks or vacations, complexities of a case, (the number of witnesses and volume of information provided by the parties) or other legitimate reasons.

7. Overview of Investigation. During the investigation, the parties will have an equal opportunity to be heard, to submit information and corroborating evidence, to identify witnesses who may have relevant information, and to submit questions that they believe should be directed by the investigator to each other or to any witness. The investigator will notify and seek to meet separately with the complainant, the respondent, and third party witnesses, and will gather other relevant and available evidence and information, including without limitation, electronic or other records of communications between the parties or witness (via voice-mail, text message, email and social media sites), photographs (including those stored in computers, phones, tablets, etc.), and medical records (subject to the consent of the applicable party).
8. Advisors. Throughout the investigation and resolution process, each party has the right to choose and consult with an advisor. The advisor may be any person, including an attorney, who is not otherwise a party or witness involved in the investigation. The parties may be accompanied by their respective advisors at any meeting or proceeding related to the investigation and resolution of a report under these procedures. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties at any meeting and/or proceeding, or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.
9. Prior or Subsequent Conduct. Prior or subsequent conduct of the respondent may be considered in determining pattern, knowledge, intent, motive or absence of mistake. For example, evidence of a pattern of prohibited conduct by the respondent, either before or after the incident in question, regardless of whether there has been a prior finding or a policy violation, may be deemed relevant to substantiate the behavior that was the subject of the complaint. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar prohibited conduct. Such prior or subsequent conduct may also constitute a violation of university policy, in which case it may subject the respondent to additional sanctions.
10. Prior Sexual History. The sexual history of a complainant or respondent will never be used to prove character or reputation. Moreover, evidence related to the prior sexual history of either of the parties is generally not relevant to substantiate the behavior that was the subject of the complaint and will be considered only in limited circumstances. For example, if the existence of affirmative consent is at issue, the sexual history between the parties may be relevant to help understand the manner and nature of communications between the parties and the context of the relationship, which may have bearing on whether affirmative consent was sought and given during the incident in question. However, even in the context of a relationship, affirmative consent to one sexual act does not, by itself, constitute affirmative consent to another sexual act, and affirmative consent on one occasion does not by itself, constitute affirmative consent on a subsequent occasion. In addition, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve another question raised by the report. The investigator will determine the relevance of this information and

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- both parties will be informed if evidence of prior sexual history is deemed relevant.
11. Relevance. The investigator has the discretion to determine the relevance of any proffered evidence and to include or exclude certain types of evidence. In general, the investigator will not consider statements of personal opinion, rather than direct observations or reasonable inferences from the facts, or statements as to any party's general reputation for any character trait.
  12. Site Visit(s). The investigator may visit relevant sites or locations and record observations through written, photographic, or other means.
  13. Expert Consultation(s). The investigator may consult medical, forensic, technological or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation. All experts must be impartial and free from bias or conflict of interest.
  14. Coordination with Law Enforcement. The investigator and/or Title IX Coordinator and Equity Officer/Director may contact any law enforcement agency that is conducting its own investigation to inform that agency that a university investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to the university in its investigation. At the request of law enforcement, the university may delay its investigation temporarily while an external law enforcement agency is gathering evidence. The university will promptly resume the investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation.
  15. Draft Investigation Report. At the conclusion of the investigation, the investigator(s) will prepare a draft investigation report summarizing the information gathered and outlining the contested and uncontested information. The draft investigation report will not include any conclusions. The complainant and the respondent will have two (2) business days to review the draft investigation report; submit additional comments and information to the investigator(s); identify any witnesses or new evidence for the investigator(s) to pursue; and submit any further questions that they believe should be directed by the investigator(s) to the other party or to any witness. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the investigator(s) during the designated review and response period will not be considered in the conclusion from the investigator(s).

## **B)i. Continuing Procedures Applicable to STUDENT RESPONDENTS**

16. Final Investigation Report. The investigator(s) may take additional investigative steps requested by the parties or identified by the investigator(s). Within seven (7) business days after receipt and consideration of any additional comments, questions and/or information submitted by the parties during the designated review and response period, investigator(s) will prepare a final investigation report. In reaching a conclusion, the investigator(s) may consult with the Title IX Coordinator and Equity Officer/Director, or designee. The Lead Investigator will deliver the final investigation report to the Title IX Coordinator & Equity Officer/Director (or designee). The Title IX Coordinator & Equity Officer/Director (or designee) will notify both parties simultaneously of the conclusion of the investigation and provide a copy of the final investigation report. In the final investigation report, the investigator(s) will include one of the following conclusions, by a preponderance of the evidence:

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- a. Not Substantiated: the investigation found insufficient evidence to substantiate the behavior that was the subject of the complaint.
    - i. The investigation will be closed and documented in accordance with applicable University policies. This conclusion may be appealed pursuant to the Sexual Misconduct or Sexual- or Gender-Based Harassment policy appeal procedures.
  - b. Substantiated: the investigation found sufficient evidence to substantiate the behavior that was the subject of the complaint. In instances where the alleged conduct, if found responsible, could result in suspension or expulsion and credibility is an issue that is material to the outcome, the student respondent is provided the opportunity for an Administrative Hearing.
    - i. Accept: The Respondent may accept this conclusion at which point the matter will be referred to the Student Conduct Office that will determine the appropriate sanction(s).
    - ii. Contest with Hearing: The Respondent may contest this conclusion and request an administrative hearing to determine whether or not the alleged behavior is a violation of policy.
    - iii. Contest without Hearing: The Respondent may contest this conclusion and submit a written statement in lieu of a hearing. In selecting this option, the Respondent waives the right to be present at an administrative hearing and cross-examine the other party and witnesses. No other hearing is provided and the matter is referred to an administrative panel for determination of whether the alleged behavior is a violation of policy.
17. Overview of Administrative Hearing.
- a. Administrative Hearing Parties:
    - i. Complainant: The Complainant is offered the opportunity to participate at the Hearing, in its entirety, not including any deliberative session.
    - ii. Respondent: The Respondent is offered the opportunity to participate at the Hearing, in its entirety, not including any deliberative session. If the Respondent fails to appear at the hearing for reasons other than good cause, the respondent's challenge to the investigation conclusion will be considered withdrawn and the investigation conclusion accepted. "Good cause" is defined as circumstances outside of the party's control (e.g., death in the family, conflicting class schedule, serious illness.)
    - iii. Administrative Hearing Proceedings Officer: An Administrative Hearing Proceedings Officer, assigned by the Title IX Coordinator and Equity Officer/Director (or designee), presides over an Administrative Hearing. This individual facilitates the Hearing, assures that due process is carried out, and reserves the right to remove any individual whose actions are disruptive to the proceedings.
    - iv. Administrative Hearing Panel: Consists of three (3) voting members, assigned by the Title IX Coordinator and Equity Officer/Director (or designee), whose role is to render a decision regarding whether University policy has been violated.
    - v. Witnesses: The Title IX Coordinator and Equity Officer/Director (or designee) will request the presence of any individual she/he deems relevant. Both parties may provide the Title IX Coordinator and Equity Officer/Director with the names of witnesses to be invited to attend the hearing. Character

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- witnesses are not permitted.
- b. Panel Questions. Members of the Administrative Hearing Panel may ask questions of either party or any witness present at the hearing.
  - c. Cross-Examination. Both parties will be permitted to question one another and any witness present at the hearing. Questions must be relevant to the issues before the panel and may not be designed to harass or intimidate the other individual. The Administrative Hearing Proceedings Officer has the authority to determine whether any questions posed are impermissible.
  - d. New Evidence. The parties are not permitted to provide new evidence to the hearing panel unless such evidence was previously unavailable during the investigation phase and the party acted with due diligence to obtain such information.
18. Notice and Timing of Hearing. The Complainant and Respondent will be notified in writing of the date, time, and location of the hearing by the Title IX Office. The notice shall include the names of any witnesses invited to attend the hearing (to the extent known.) The notice shall also include the names of the hearing panel members. The Complainant and Respondent shall have two business days from receiving the hearing notice to challenge any panel member for cause. The Title IX Coordinator shall determine whether, in light of the challenged person's knowledge of the case or personal or professional relationships with the Complainant, Respondent, or a witness, the challenged person would be able to hear the case fairly and impartially.
19. Determination by the Administrative Hearing Panel. The members of the Administrative Hearing Panel will, at the conclusion of the hearing, determine, by majority vote, whether there is, by a preponderance of the evidence, a violation of policy.
- i. If the Administrative Hearing Panel renders a finding of responsibility, the matter will be referred to the Student Conduct Office to determine the appropriate sanction(s). Based on its review of the information presented, the hearing panel will provide a non-binding recommendation to the Student Conduct Office regarding an appropriate sanction. If the Complainant chose not to attend the hearing and the investigation conclusion relied on an assessment of the parties' credibility, the sanction of suspension or dismissal may not be imposed.
  - ii. If the Administrative Hearing Panel does not render a finding of responsibility, the investigation will be closed and documented in accordance with applicable University policies.
  - iii. Sanctions may be appealed pursuant to the "Sanctioning and Appeals Panels" section of these procedures.

## **B)ii. Continuing Procedures Applicable to EMPLOYEE RESPONDENTS**

16. Final Investigation Report. The investigator(s) may take additional investigative steps requested by the parties or identified by the investigator(s). Within seven (7) business days after receipt and consideration of any additional comments, questions and/or information submitted by the parties during the designated review and response period, investigator(s) will prepare a final investigation report. The report will include if there is sufficient evidence, by a preponderance of the evidence, to support a finding of responsibility for a violation of the policy if within seven (7) business days after receipt and consideration of any additional comments, questions and/or information submitted

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by the parties during the designated review and response period. In reaching this finding, the investigator may consult with the Title IX Coordinator and Equity Officer/Director, or designee. The investigator will deliver the final investigation report to the Title IX Coordinator & Equity Officer/Director. The Title IX Coordinator & Equity Officer/Director will notify both parties simultaneously of the findings and provide a copy of the final investigation report.

- a. Finding(s) of No Responsibility of Misconduct by Employees. When the investigator determines that there is insufficient evidence, by a preponderance of the evidence, the investigation will be closed and documented in accordance with applicable university policies.
- b. Finding(s) of Responsibility of Misconduct by Employees. When the investigator determines that there is sufficient evidence, by a preponderance of the evidence, to support a finding of responsibility on one or more of the allegations, the Title IX Coordinator & Equity Officer/Director will provide the final investigation report to the sanctioning panel. The sanctioning panel will recommend appropriate responsive actions to the Human Resources Office/or designee. The Human Resources Office will impose responsive actions.

## **C) ACCEPTANCE OF RESPONSIBILITY**

The respondent may, at any time, elect to resolve the resolution process by accepting responsibility for the prohibited conduct, in which case the Dean of Students Office or Human Resources Office will refer the matter to the appropriate sanctioning panel to determine the appropriate sanction(s).

## SANCTIONING AND APPEALS PANELS

The Dean of Students Office, in collaboration with the Title IX Office and Human Resources Office, will appoint a standing pool of trained members of the university community to serve on the panels. Panel members will participate in annual training around issues related to sexual misconduct, sexual harassment and gender-based harassment, and determining sanctions that protects the safety of reporting parties, the campus community and promotes accountability. The Dean of Students (or designee), Title IX Coordinator and Equity Office/Director (or designee) and designee from Human Resources Office will select (a) Three members from this pool to serve on the sanctioning panel; in collaboration with the Title IX office, the sanctioning panel will review the investigator's finding(s) and recommend appropriate sanction(s)/responsive actions under these procedures. All persons serving on any sanctioning panel must be impartial and free from bias or conflict of interest.

- a. The sanctioning panel recommends the appropriate sanction(s)/responsive action(s) for the prohibited conduct.

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Sanctions may include any of the sanctions that are available for violations of the university's Standards of Conduct, including but not limited to:

- Expulsion: Termination of student status for any indefinite period.
- Suspension: Exclusion from classes and other privileges or activities or from the university for a definite period of time.
- Suspension held in abeyance: Exclusion from classes and other privileges or activities or from the university for a definite period of time to be enforced should another violation occur.
- Disciplinary Probation: Exclusion from participation in privileged or extracurricular activities for a definite period of time. Including restriction from entering specific university areas and/or from all forms of contact with certain person(s).
- Restriction from employment at the university: Prohibition of, or limitation of University employment.
- University Housing Transfer or Removal: Placement in another room or housing unit, or removal from university housing. Housing transfers or removals may be temporary or permanent depending on the circumstances.
- Professional Assessment: Completion of a professional assessment that could help the student or the university ascertain the student's ongoing supervision or support needed to successfully participate in the university community. The cost of professional assessment will be paid by the sanctioned student.
- Removal or non-renewal: of scholarship, extracurricular or travel restrictions for employees.
- Restitution: Reimbursement for damages or misappropriation of property.
- Reprimand: A written censure for violation of the policy placed in the student's or employee's record, including the possibility of more severe disciplinary sanctions should another violation occur within a stated period of time.
- Warning Notice: A notice, in writing, that continuation or repetition of conduct found wrongful, within a period of time stated in the warning, may be cause for more severe disciplinary action.

Policies prohibit a broad range of conduct, all of which are serious in nature. The propriety of any particular sanction is reviewed on an individual basis based on the unique facts and circumstances as found by the sanctioning panel. In keeping with the university's commitment to foster an environment that is safe, inclusive, and free from discrimination and harassment, these procedures provide the sanctioning panel with wide latitude in the imposition of sanctions tailored to the facts and circumstances of the prohibited conduct, the impact of the conduct on the complainant and university community, and accountability by the respondent. The imposition of sanctions is designed to eliminate prohibited conduct, prevent its recurrence, and remedy its effects, while supporting the university's educational mission and legal obligations. Sanctions may include educational, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, harmful to the individuals involved or so deleterious to the educational process that it requires severe sanctions, including suspension or expulsion from the university.

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The sanctioning panel will recommend any one or more sanctions be imposed. In determining the appropriate sanction(s), the sanctioning panel will be guided by a number of considerations, including:

- The severity, persistence or pervasiveness of the prohibited conduct;
- The nature or violence (if applicable) of the prohibited conduct;
- The impact of the prohibited conduct on the complainant;
- The impact or implications of the prohibited conduct within the university community;
- Prior disciplinary history of the respondent;
- Whether the respondent has accepted responsibility for the prohibited conduct;
- The maintenance of a safe, nondiscriminatory and respectful environment conducive to learning; and
- Any other mitigating, aggravating, or compelling factors.

Sanctions are effective immediately, unless otherwise specified by the Dean of Students Office (student respondent)/Human Resources Office (employee respondent). The Dean of Students Office/Human Resources Office will provide simultaneous notification in writing of sanctions, to the extent permitted or mandated by law. This notification will include university appeal procedures.

In addition to other sanctions, the sanctioning panel may recommend that the Title IX Coordinator & Equity Officer/Director impose or extend a no-contact directive and recommend that the Dean of Students Office/Human Resources Office impose or extend academic, university housing and/or university employment modifications, as may be appropriate; impose or extend increased monitoring, supervision, and/or security at locations or in connection with activities where the prohibited conduct occurred or is likely to reoccur; arrange for conducting targeted or broad-based educational programming or training for relevant persons or groups; learn about the impact of that prohibited conduct on the complainant and the university community, and identify how to prevent that prohibited conduct in the future (including community service and mandatory participation in training, education and/or prevention programs related to the prohibited conduct); and/or impose any other remedial or protective measures that are tailored to achieve the goals of the policies.

## **D) REQUESTING AN APPEAL**

Sanctions imposed by the Dean of Students Office/Human Resources Office post-investigation can be appealed by any party according to the grounds below. Sanctions imposed by the Dean of Students Office/Human Resources office will be in effect during the appeal process. Student may request an appeal to the Dean of Students Office and employees may request an appeal to the Human Resources Office to delay implementation of the sanctions until the appeal is decided, but the presumptive stance of the university is that the sanctions will go into effect immediately. Any party who files an appeal request must do so in writing to the Dean of Students or designee, or Associate Vice President for Human Resources or designee, within two (2) business days of receiving the written decision, for a review of the sanctions imposed. The written decision

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will be provided in person and/or emailed to the parties' university-issued email accounts and/or mailed to the local mailing address of the respective party as indicated in university records.

The appeal request will be shared with the other party (e.g. if the responding party files an appeal, the appeal is shared with the reporting party, who may also wish to file a response and/or bring their own appeal on separate grounds; this response or appeal will be shared with the initial appealing party). Based on the written requests/responses or on interviews as necessary, the Dean of Students office (or designee) and the Human Resources Office or designee will send a letter of outcome for the appeal to all parties. The Dean of Students office/the Human Resources Office can take one of three possible actions: dismiss an appeal request as untimely or ineligible, grant an appeal and remand the finding and/or sanction for reconsideration, or modify a sanction.

The original finding and sanction will stand if the appeal request is not timely or substantively eligible, and that decision is final. The party requesting appeal must show clear error as the original finding/or a compelling justification to modify a sanction, as both finding and sanction are presumed to have been decided reasonably and appropriately.

## GROUND FOR APPEAL

An appeal provides limited review of the original decision. It is not an opportunity to present evidence again or to reevaluate credibility.

The grounds for appeal are:

1. A procedural error occurred that significantly impacted the outcome of the finding (e.g. substantiated bias, material deviation from established procedures, etc.);
2. To consider new evidence, unavailable during the original investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included;
3. The sanctions imposed fall outside the range of sanctions designated for this offense and the cumulative conduct history of the responding party.

If remanded to re-open the investigation, the results of a revised investigation will be subsequently forwarded for reconsideration to a sanctioning panel. If the appeal remands to the sanctioning panel for review, the reconsideration of the sanctioning panel is not appealable.

In rare cases where a procedural error cannot be remediated by remand, the Dean of Students/Associate Vice President for Human Resources (or designees) may remand and order a new sanctioning panel. The results of a reconvened sanctioning panel cannot be appealed. The results of a new sanctioning panel can be appealed once on any of the three applicable grounds for appeals.

The procedures governing the appeals include the following:

- All parties should be timely, and simultaneously, informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision;

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- Every opportunity to return the appeal to the original sanctioning panel for reconsideration (remand) should be pursued;
- Appeals are not intended to be full re-investigations of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the original sanctioning panel, and pertinent documentation regarding the grounds for appeal;
- Appeal decisions are to be deferential to the original sanctioning panel, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so;
- An appeal is not an opportunity for the appeal board to substantiate its judgement for that of the original sanctioning panel, merely because the board disagrees with its finding and/or sanctions/responsive actions.
- Sanctions imposed are implemented immediately unless the Dean of Students Office/Human Resources Office stays their implementation in extraordinary circumstances, pending the outcomes of the appeal.
- A written decision on the appeal will be sent to all parties within five (5) business days from review of the appeal.
- The appeal panel's decision to deny an appeal request is final.

## **E) RELEASE OF DOCUMENTS**

Under federal privacy laws, the final investigation that report, statements of one party that are shared with the other party in the resolution process, and any documents prepared by the university constitute education records may not be disclosed outside of the proceedings, except as may be required or authorized by law. The university does not, however, impose any restrictions on the parties regarding re-disclosure of the incident, their participation in proceedings under these procedures, or the letter of findings.

## **VII) To Whom Procedures Applies**

Procedures apply to students who are registered or enrolled for credit- or non-credit-bearing coursework ("Students"); all full-time and part-time University employees, student employees, and "third parties": contractors, vendors, visitors, or guests. These procedures are applicable to acts of prohibited conduct committed by or against students, employees and third parties when: (1) the conduct occurs on university grounds or other property owned or controlled by the university; (2) the conduct occurs in the context of university employment or education program or activity, including, but not limited to, University-sponsored study abroad, research, on-line, or internship programs; or (3) the conduct occurs outside the context of a university employment or education program or activity, but has continuing adverse effects on or creates a hostile environment for students, employees or third parties while on university grounds or other property owned or controlled by the university or in any University employment or education program or activity. The university's Division of Inclusion and Equity administers two separate policies that address other forms of discrimination and harassment: (1) the Anti-Harassment policy (March 31, 2016) and (2) the Consensual Relationship policy (November 19, 2012). This policy supersedes any conflicting provisions contained in the Anti-Harassment and

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Consensual Relationship policy. Where Prohibited conduct violates the Sexual Misconduct policy and Sexual and Gender-Based Harassment policy, and also violates either or both of the above-mentioned Policies, the university's response will be governed by the procedures referenced in this policy. Additionally, this procedural document replaces the Interim Sexual Misconduct policy (November 21, 2014). Questions about which policy applies in a specific instance should be directed to the University's Title IX Coordinator & Equity Officer/Director in the Division of Inclusion and Equity at (616) 331-9530.

## **VIII) Applicable Procedures Under This Policy**

The specific procedures for reporting, investigating, and resolving prohibited conduct are based upon the nature of the respondent's relationship to the university (student, employee, or third party). This set of procedures referenced below is guided by the same principles of fairness and respect for complainants and respondents. "Complainant" means the student, employee or third party who presents as the victim/survivor of any prohibited conduct under this policy, regardless of whether that person makes a report or seeks action under this policy. "Respondent" means the student, employee or third party who has been accused of violating this policy.

A student or employee determined by the university to have committed an act of prohibited conduct is subject to disciplinary action, up to and including separation from the university. Third parties who commit prohibited conduct may have their relationships with the university terminated and/or their privileges of being on university premises withdrawn.

The procedures referenced provide for prompt and equitable response to reports of prohibited conduct. The procedures designate specific timeframes for major stages of the process and provide for thorough and impartial investigations that afford all parties notice and an opportunity to present witnesses and evidence and to view the information that will be used in determining whether a policy violation has occurred. The university applies the preponderance of the evidence standard, when determining whether this policy has been violated.

"Preponderance of the evidence" means that it is more likely than not that a policy violation occurred.

## **IX) Title IX Coordinator**

At GVSU, the Title IX Coordinator role is held by the Title IX Coordinator & Equity Officer/Director in the Division of Inclusion and Equity.

Under Title IX: No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. The Title IX Coordinator is charged with monitoring the university's compliance with Title IX; ensuring

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appropriate education and training; coordinating the university's investigation, response, and resolution of all reports under this policy; and ensuring appropriate actions to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. The Title IX Coordinator & Equity Office/Director is available to meet with any student, employee, or third party to discuss these procedures.

## **X) Resources and Reporting Options**

The university offers a wide range of resources for all students and employees to provide support and guidance in response to any incident of prohibited conduct. For comprehensive information on accessing university and community resources, including emergency and ongoing assistance; health, mental health, and victim-advocacy services; options for reporting prohibited conduct to the University and/or law enforcement; and available support with academics, housing, and employment, see resources listed below.

### **A. REMEDIAL AND PROTECTIVE MEASURES**

The university offers a wide range of resources for students and employees, whether as complainants or respondents, to provide support and guidance throughout the initial reporting, investigation, and resolution of a report of prohibited conduct. The university will offer reasonable and appropriate measures to protect a complainant and facilitate the complainant's continued access to university employment or education programs and activities. These measures may be both remedial (designed to address a complainant's safety and well-being and continued access to educational opportunities) or protective (involving action against a respondent). Remedial and protective measures, which may be temporary or permanent, may include no-contact directives, residence modifications, academic modifications and support, work schedule modifications, interim disciplinary suspension, suspension from employment, and pre-disciplinary leave (with or without pay). Remedial measures are available regardless of whether a complainant pursues a complaint or investigation. The university will maintain the privacy of any remedial and protective measures provided to the extent practicable and will promptly address any violation of the protective measures. The Title IX Coordinator & Equity Officer/Director has the discretion to impose and/or modify any interim measure based on all available information, and is available to meet with a complainant or respondent to address any concerns about the provision of interim measures. The university will provide reasonable remedial and protective measures to third parties as appropriate and available, taking into account the role of the third party and the nature of any contractual relationship with the university.

#### **1. PRIVACY AND CONFIDENTIALITY**

The university is committed to protecting the privacy of all individuals involved in the investigation and resolution of a report under this policy. The university also is committed to providing assistance to help students, employees and third parties make informed choices. With respect to any report under the Sexual Misconduct policy and Sexual and Gender Based Harassment policy, the university will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while

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balancing the need to gather information to assess the report and to take steps to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. Privacy and confidentiality have distinct meanings under this policy.

- i. Privacy means that information related to a report of prohibited conduct will be shared with a limited circle of university employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the university’s response to reports of prohibited conduct receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in the university’s FERPA policy. The privacy of an individual’s medical and related records, generally, is protected by the Health Insurance Portability and Accountability Act (“HIPAA”), excepting health records protected by FERPA. Access to an employee’s personnel records may be restricted in accordance with the Freedom of Information Act, and, where applicable, Human Resources Office.
- ii. Confidentiality exists in the context of laws that protect certain relationships, including those with medical and clinical care providers (and those who provide administrative services related to the provision of medical and clinical care), mental health providers, and licensed counselors, all of whom may engage in confidential communications under Michigan law. The university has designated individuals who have the ability to have privileged communications as “confidential employees.” When information is shared by an individual with a confidential employee or a community professional with the same legal protections, the confidential employee (and/or such community professional) cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18.
- iii. Employee responsibility to report disclosures or information about prohibited conduct is described in the Sexual Misconduct policy and Sexual and Gender-Based Harassment policy. Every employee is designated as either a “Campus Security Authority”, “Responsible Employee”, or a “Confidential Employee”.
- iv. A “Confidential Employee”: (1) any employee who is a licensed medical, clinical or mental-health professional (e.g., physicians, nurses, physicians’ assistants, psychologists, psychiatrists, licensed counselors and social workers, and those performing services under their supervision), when acting in that professional role in the provision of services to a patient who is a student (“health care providers”); and (2) any employee providing administrative, operational and/or related support for such health care providers in their performance of such services. A confidential employee will not disclose information about prohibited conduct to the University’s Title IX Coordinator & Equity Officer/Director without the student’s permission subject to the exceptions set forth in the confidentiality section of this policy).

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- v. A “Responsible Employee”: Is any university employee who is not a confidential employee. A responsible employee is required to report to the university’s Title IX Coordinator & Equity Officer/Director all relevant details (obtained directly or indirectly) about an incident of prohibited conduct that involves any student as a complainant, respondent, and/or witness, including dates, times, locations, and names of parties and witnesses. Responsible Employees include all staff, faculty, Resident Assistants, Graduate Assistants, and all other student employees, when disclosures are made to any of them in their capacities as employees. Responsible employees are not required to report information disclosed (1) at public awareness events (e.g., “Take Back the Night,” candlelight vigils, protests, or other public forums in which students may disclose incidents of prohibited conduct; collectively, “Public Awareness Events”), or (2) during a student’s participation as a subject in an Institutional Review Board approved human subjects research protocol (“IRB Research”). The university may provide information about Students’ Title IX rights and about available university and community resources and support at public awareness events.
- vi. Responsibility to report prohibited conduct where either the complainant or the respondent is an employee: Supervisors, management and human resources in which professionals are required to report to the university’s Title IX Coordinator & Equity Officer/Director all relevant details about an incident of prohibited conduct either the complainant or the respondent is an employee. Reporting is required when such supervisors, management and human resource professionals know (by reason of a direct or indirect disclosure) or should have known of such prohibited conduct. For academic faculty, supervisors include department chairs, deans, and other unit administrators.
- vii. Reporting to Law Enforcement Under the Michigan law, Grand Valley State Police Department is required to report information about certain allegations of prohibited conduct to the Prosecutors Office when an incident has reportedly occurred. The department also forwards statistics of criminal activity to the State of Michigan for inclusion in the FBI’s Uniform Crime report. viii. Clery Act reporting Pursuant to the Clery Act, the university includes statistics about certain offenses in its annual security report and provides those statistics to the U.S. Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. The Clery Act also requires the university to issue timely warnings via email to the university community about certain crimes that have been reported and may continue to pose a serious or continuing ongoing threat to students and employees. Consistent with the Clery Act, the University withholds the names and other personally identifying information of complainants when issuing timely warnings to the university community.

## **2. CONFIDENTIAL RESOURCES**

Consistent with the definition of confidential employees and licensed community professionals, there are a number of resources within the university and local communities where students and employees can obtain confidential, trauma-informed counseling and support. Community resources include:

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- YWCA West Central Michigan 25 Sheldon Blvd., SE Grand Rapids MI 49503, 24- hour confidential crisis line (616) 454-9922.
- Center for Women in Transition, 411 Butternut Drive, Holland MI 49424, 24-hour confidential crisis line (800) 848-5991.
- National hotlines: Rape, Abuse and Incest National Network (RAINN) (800) 656- HOPE; National Center for Victims of Crime Victim Service (800) FYI-CALL or (800) 211-7996 (TTY/TDD).

Students can also obtain confidential and free counseling at the University Counseling Center (616) 331-3266 for a complete list of university and community-based confidential resources for Students, see the student Resource Guide (Appendix A-1).

Employees can also obtain such counseling through Encompass the Faculty and Employee Assistance Program (800) 788-8630. For a complete list of the university and community based confidential resources for employees, see the Employee Resource Guide (Appendix B-1).

### 3. REPORTING

There are multiple channels for reporting prohibited conduct. A complainant may choose to report to the university, to law enforcement, to both, or to neither. These reporting options are not exclusive. Complainants may simultaneously pursue criminal and disciplinary action. The university will support complainants in understanding, assessing and pursuing these options.

#### i. Law Enforcement

Complainants have the right to notify or decline to notify law enforcement. In keeping with its commitment to taking all appropriate steps to eliminate, prevent, and remedy all prohibited conduct, the university urges complainants to report prohibited conduct immediately to local law enforcement, visit: [gvsu.edu/vro](http://gvsu.edu/vro). Police have unique legal authority, including the power to seek and execute search warrants, collect forensic evidence and make arrests. If you choose, the earlier your report these crimes to the police, the easier it will be for the police to investigate the crime and to prosecute the case. Earlier reporting helps to preserve your options for the future. The university will assist complainants in notifying law enforcement if they choose to do so.

#### ii. The University

The University also urges anyone who becomes aware of an incident of prohibited conduct to report the incident immediately by contacting the University's Title IX Coordinator & Equity Officer/Director by telephone, email, or in person during regular office hours at 24 their respective locations, email addresses and/or phone numbers listed at <http://www.gvsu.edu/titleix/>. There is no time limit for reporting prohibited conduct to the university under this policy; however, the university's ability to respond may diminish over time, as evidence may erode, memories may fade, and respondents may no longer be affiliated with the university. If the respondent is no longer a student or an employee, the university will provide reasonably appropriate remedial measures, assist the Complainant in identifying

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external reporting options, and take reasonable steps to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. The university will not pursue disciplinary action against complainants or witnesses for disclosure of illegal personal consumption of drugs or alcohol as such disclosures are made in connection with a good faith report or investigation of prohibited conduct. Complainants may simultaneously pursue criminal and university complaints.

## **XI) Violations of Law**

Behavior that violates this policy may also constitute a crime under the laws of the jurisdiction in which the incident occurred. For example, the State of Michigan criminalizes and punishes some forms of Sexual Assault, Intimate Partner Violence, Sexual Exploitation, Stalking, and Physical Assault. The criminal statutes that may apply in cases of Physical Assault are located in MCL 750.81 through 750.89. The criminal statutes relating to Sexual Assault are found in MCL 750.520a to 750.520n. Sections 750.411h and 750.411i of the Michigan Compiled Law defines and identifies the penalty for criminal stalking. Finally, MCL Sections 333.5210, 750.451, 750.520, 750.539d and 750.539j of the State of Michigan provide for criminal penalties in some cases of Sexual Exploitation. This compilation of criminal statutes is not exhaustive, but is offered to notify the university community that, some forms of prohibited conduct may also constitute crimes under Michigan law, which may subject a person to criminal prosecution and punishment in addition to any sanctions under this policy.

## **XII) Prevention and Awareness Programs**

The University is committed to the prevention of Prohibited conduct through regular and ongoing education and awareness programs. Incoming Students and new Employees receive primary prevention and awareness programming as part of their orientation, and returning Students and current Employees receive ongoing training and related education.

## **XIII) Training**

The university provides training to students and employees to ensure they understand this policy and the topics and issues related to maintaining an education and employment environment free from harassment and discrimination.

## **XIV) Related Policies**

STUDENTS

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- [Sexual Misconduct policy](#), including: Sexual Assault, Sexual Exploitation, Intimate Partner Violence (Domestic Violence or Dating Violence), Stalking and Retaliation
- [Sexual or Gender-Based Harassment policy](#) (including Retaliation policy)
- [Consensual Relationship policy](#)
- [Student Code](#)
- [Rights of Students at Grand Valley State University Pursuant to the Family Educational Rights and Privacy Act \(FERPA\)](#)

## **XV) Obligation to Provide Truthful Information**

All university community members are expected to provide truthful information in any report or proceeding under this policy. Submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of prohibited conduct is prohibited and subject to disciplinary sanctions under the university's Honor Code and disciplinary action under the appropriate employee disciplinary policy. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

## **XVI) Annual Review**

This policy is maintained by Division of Inclusion and Equity. The university will review and propose updates to this policy for the proceeding academic year, as appropriate, by December 31 of each year. The university will evaluate, among other things, any changes in legal requirements, existing university resources, and the resolution of cases from the preceding year (including, but not limited to, timeframes for completion and sanctions and remedies imposed).